

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Order Instituting Rulemaking to )

Implement Certain Provisions of ) DOCKET NO. 99-18

Massachusetts Anti-Slamming Law )

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COMMENTS OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

By notice dated June 10, 1999, the Massachusetts Department of Telecommunications and Energy ( Department ) requested comments on proposed rules and regulations implementing legislation to protect consumers from the unauthorized changing of their local or long distance telecommunications carrier ( slamming ). AT&T supports the anti-slamming policy expressed in the proposed rules, but submits that some provisions in the rules should be modified to conform fully with the FCC's anti-slamming rules.

I. THE PROPOSED RULES' DEFINITION OF THE TERM CUSTOMER IS TOO RESTRICTIVE\_\_\_\_\_

Section 13.02 of the proposed rules defines a customer as a person or business who resides in Massachusetts and subscribes to local or long distance telecommunications services, indicating that only the person whose name appears on the telephone bill is considered a customer. This narrow definition, however, fails to reflect the fact that there are people in a household or business, other than the customer of record, who may be authorized to initiate a carrier change. The point of the slamming rules is to determine whether there was proper authorization to make the change.

The definition as proposed places an unnecessary and artificial restraint on the universe of people who can potentially authorize a carrier change. In many instances, information identifying the customer of record is resident only in the LEC's database, and the LEC is under no obligation to share such information with competitors. Thus, the definition of customer, for both residence and business service, should include any individual who is authorized to make decisions regarding the household's or business's telecommunications service. The inquiry pursued by the carrier and the third party verifier should be an effort to confirm such authority. Accordingly, the rules should be revised to add to the definition of customer the words "or any authorized decision maker within the same household or business."

The definition of the term "letter of agency" contains a reference to 13.04(1)(a), but no such section exists in the proposed rules. Similarly, the definition of "Third Party Verification" refers to subsection 13.04(1)(b), which does not exist.

II. THE REQUIREMENTS FOR THIRD PARTY VERIFICATION SHOULD BE

SIMPLIFIED \_\_\_\_\_

Section 13.03 of the rules addresses the proposed requirements for third party verification ( TPV ) of changes in carriers. The proposed rules require that the TPV agent provide the name and address of the TPV company, and the identity of the customer s existing telecommunications provider. AT&T submits that including these other two company names in the confirmation process will confuse the customer, and does not achieve the goal of the TPV process. The objective is to have the customer confirm to the third party that he or she has authorized a change in carrier. This can be done most effectively without including the names of other companies--the TPV agent and the existing carrier--that have nothing to do with the customer s selection of a new carrier. It would be sufficient, and efficient, for the TPV representative to state his or her full name and explain that he or she will be verifying the customer s selection of the new company.

The requirement of proposed Section 13.03(4) that the TPV agent also confirm the name of the customer s existing carrier, as a practical matter, adds no value to the reliability to the TPV call. Often, neither the new company nor the TPV agent has information related to the customer s current carrier; this information is resident with the LEC. Since neither the new company nor the TPV agent can determine whether the customer s identification of his or her existing carrier is correct, there is nothing against which the TPV agent can verify the information the customer supplies. The additional information contemplated in the proposed rules will provide no benefit, will only serve to confuse customers and will needlessly extend the length of the TPV calls.

Providing the toll-free number for the TPV company during the verification call as proposed in 13.03(3) would likely confuse customers. The TPV agents are neutral parties whose sole purpose is to verify carrier changes. They have no information regarding carriers products, pricing, or accounts. If customers have questions regarding their TPV process, they should call the numbers provided on the written confirmation notices, and the records associated with their order can be easily retrieved by representatives of their new service provider.

Section 13.03(5) requires that written confirmation of a carrier-initiated change be mailed to the customer within two weeks of the TPV call. However, the selected company may not receive confirmation of the order from the LEC within two weeks due to a number of possible complications (disconnections, PIC restrict orders, etc.). Requiring written confirmation within two weeks is therefore not practicable. Moreover, sending a confirmation notice closer to the date of the actual switch prevents customers from becoming concerned that their requested carrier change has not yet been implemented.

With regard to the content of the carrier change confirmation notice, Section 13.03(5) of the proposed rules requires that the notice include any applicable charge for changing carriers and the names and addresses of the TPV company. However, this requirement is exceedingly burdensome, for it would require such notices to be customized not only by state, for the change charge, but each individual letter would have to be customized to include the name of the specific TPV company that was used to confirm a specific order. This is simply not practicable for AT&T and other carriers that use a national or regional system to generate and confirm such orders. The expense required to customize order confirmation notices would not be accompanied by any appreciable benefit to the customer. With regard to the change charge, the FCC rules do not require that the customer be provided such information in the confirmation. Often the new carrier is not even aware of the amount of the charge, since the LEC controls such charges.

Thus, the TPV process should be simplified and should include only the information necessary to confirm that a customer has indeed authorized a change in carrier.

III. THE DEPARTMENT SHOULD ADD PROVISIONS TO ITS RULES TO ALLOW 1) ELECTRONIC AUTHORIZATION AND 2) THE USE OF CHECKS AS  
LOAs \_\_\_\_\_

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The proposed rules fail to address the use of electronic authorization as an allowable means of verifying a customer's carrier change. The rule should be modified to maintain consistency with the FCC's rules, which allow electronic authorization.

The proposed rules also fail to address the issue of checks as marketing instruments. The term "letter of agency" as used in the rules should be interpreted in a manner consistent with the FCC's use of the term and should include the use of checks as vehicles by which a customer may authorize a change in telecommunications carrier. 47 C.F.R. 64.1150 sets forth the form and content of the LOA required by the FCC, and subsection (a) specifically states that the letter of agency may be combined with checks. The FCC's regulations regarding the content and typeface of the checks contain all of the necessary safeguards to make a check LOA a safe method of verification for carrier changes. Moreover, for many years check LOAs have provided an effective and efficient means for companies to market their services, so by now customers are well aware of the connection between endorsing the check and authorizing a change in telecommunications carrier. Because there are adequate safeguards in place, customers are not disadvantaged by the use of checks as LOAs. In fact, checks have traditionally been included as an important component of a company's marketing efforts because customers who respond to check LOAs may not respond to other types of marketing. Massachusetts consumers, and carriers providing service in the state, should not be deprived of these otherwise lawful promotions. The Department should thus add a provision to its rules which addresses the use of checks as LOAs, to be consistent with the FCC's rules.

#### CONCLUSION

The Department can best effectuate the Massachusetts Legislature's anti-slamming mandate by strictly enforcing the verification rules adopted by the FCC. Adherence to the federal rules is advisable because slamming is an industry-wide issue and it is important for state and federal regulators to take a

consistent nationwide approach. Such an approach will minimize customer confusion and will help expedite changes authorized by customers. Accordingly, for the reasons explained above, the

Department should modify the provisions in the proposed rules which address the TPV process, and should add provisions for electronic authorization and check LOAs consistent with the FCC's regulations.

Respectfully submitted,

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